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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.4416 OF 1997

Universal Capsules Ltd.).. Plaintiffs

Versus

M/s.Eureka Medico Products Ltd.).. Defendants

Mr.V.C. Deshpande for the Plaintiffs.

None present for the Defendants.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 10TH APRIL 2006

P.C.:

. The present Suit has been filed for recovery of an amount of Rs.5,44,548/- along with further interest on Rs.2,16,860.39 at the rate of 20% per annum from the date of the filing of the Suit till payment.

2. According to the Plaintiffs, Empty Hard Gelatine Capsules were supplied to the Defendants pursuant to the purchase order of the Defendants dated 9th February 1996. According to the Plaintiffs, between the period 3rd March 1996 and 9th March 1996, they sold and delivered to the Defendants Capsules worth Rs.4,16,860.39 paise. The delivery challans have been produced by the Plaintiffs.

3. The Defendants have admitted that the amount has remained unpaid by their letter dated 24th May 1997. It

appears that despite this letter, the Defendants have not repaid the amounts and hence the present Suit has been filed.

4. The Plaintiffs have filed the affidavit of service indicating service by publication of the notice in the Free Press Journal on 26th September 2000.

5. Nobody appears for the Defendants nor is any appearance filed on behalf of the Defendants. Defendants have also not filed a Written Statement.

6. The Plaintiffs have filed an affidavit of the Constituted Attorney of the Plaintiffs stating that secondary evidence ought to be permitted since the original papers which were in Bangalore office were not available despite diligent search. The Plaintiffs have produced xerox copies of these documents as also their letter calling upon the Defendants to pay the amount.

7. In view of the fact that there is no Written Statement nor any defence preferred by the Defendants, I am of the view that Plaintiffs are entitled to an ex-parte decree. The documents support the claim of the Plaintiffs.

8. Suit decreed as prayed for. However, the interest payable by the Defendants from the date of the filing of the Suit till payment will be at the rate of 6

per cent per annum.